THE HON'BLE SRI JUSTICE V.V.S.RAO

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WRIT PETITION No.23846 of 2005

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Dated:23.03.2006

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Between:

R.Laxman Rao, S/o.Narsimha Rao.

…Petitioner

And

The District Level Committee for Sand Auctions, Zillaparishad Compound, Guntur, rep. by its Chairman, and others.

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.23846 of 2005

ORDER:

The petitioner filed the instant writ petition assailing the proceedings in R.C.No.230/2001 G2(R-4), dated 29.10.2005, as illegal and contrary to the provisions of Rules 9-A to 9-L of the Andhra Pradesh Minor Mineral Concession

Rules, 1966 (the Mineral Concession Rules, for brevity), and seeks a writ of mandamus declaring the same as illegal, and for a further direction to the respondents to conduct auction for granting leasehold rights of Reach No.4 (Krishna River reach), Godavarru Village, Duggirala Mandal, Guntur District.

The petitioner is a businessman engaged in extracting sand from the river reaches. It is the case of the petitioner that the third respondent was granted lease of the reach for a period of one year, which expired on 28.10.2005, therefore, so as to obtain temporary permits, the petitioner made a representation to the second respondent duly enclosing the necessary bank draft/pay order. The petitioner also requested the authorities to conduct auction. However, the same was not considered, and the District Panchayat Officer issued the impugned proceedings extending the lease for a period of seventy two days, allegedly for the reason that the third respondent was prevented from quarrying the sand. The order was passed purportedly in accordance with the Government Memo dated 03.08.2004.

This Court while admitting the Writ Petition on 08.11.2005 suspended the impugned proceedings. Respondent Nos.1 and 2 moved W.V.M.P.No.51 of 2006, and the third respondent moved W.V.M.P.No.3112 of 2005. On 16.03.2006 the application filed by the third respondent was dismissed as the Counsel for the third respondent did not evince interest to properly prosecute the case. Today, the W.V.M.P filed by respondent Nos.1 and 2 has come up for hearing. Though interlocutory matters are listed, the matter is heard finally and is being disposed of by this order.

The learned Counsel for the petitioner placed reliance on the relevant rules and as well as the judgment delivered by me in **S.K.D.A.K.S.Q., B&F C0-op.Society Ltd., v. DPO & DM and Convenor** and submits that in the absence of any power conferred on the authorities to extend the lease beyond the period, it is impermissible for respondent Nos.1 and 2 to pass orders extending the lease. **Per contra,** the learned Counsel for the third respondent, Sri Purushotham Reddy, and the learned Assistant Government Pleader for Panchayat Raj submit that as the third respondent was prevented from quarrying for seventy two days, the period was extended, which is legal and valid. In the decision cited above, after making reference to the relevant rules, this Court has considered the question in the background of the cases, which are almost similar with the background of the case herein. This Court has laid down as under.

> A reading of the Rules, as notice hereinabove, would show that the proviso to Rule 9-L of the Rules confers a limited right on the existing lessees to continue the lease for a period of sixty days on payment of ten per cent enhanced lease amount. That situation would arise only when the sand reach is not put to auction for the subsequent year. Except to the limited extent, a lessee who is granted the right to quarry sand for a specified period cannot claim any right for extension of lease. The Rule 9-B(1) of the Rules is only enabling provision under which the competent authority can grant lease for a period of two years. In these cases, the leases were granted to the petitioners only upto 30.09.2005 and therefore they have no right to compel the respondents to extend the lease whatever the reason be. The petitioners knowing fully well the business proposition and presumably having inspected the reaches and ramp points, became highest bidders and they cannot now

turn around after working the leases for considerable period and seek the relief which is not contemplated either under the Rules or the terms of the Contract. The respondents have acted well within the jurisdiction and have not violated the Rules.

In view of the above legal position, it was impermissible for respondent Nos.1 and 2 to pass the impugned order extending the lease. Indeed, as per the Mineral Concession Rules the Government has no say in the grant of lease to quarry the sand. Such powers are vested in the first respondent-Committee and the first respondent has abdicated its duty while passing orders based on the notification issued by the Government. For this reason, the Writ Petition has to be allowed.

Accordingly, the Writ Petition is allowed and a direction shall issue to the first respondent to conduct auction to lease out Reach No.4 of Krishna River at Godavarru Village, Duggirala Mandal, Guntur District. This exercise may be completed within a period of two weeks from the date of receipt of a copy of this order. No costs.

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(V.V.S.RAO, J)

23.03.2006

Note: Dispatch order copy by 25.03.2006

By order

vs